

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Section 73.202	)	RM No. 10097
of the Commission's Rules	)	
Table of Allotments	)	MM Docket No. 01-101
For FM Broadcast Stations	)	
(St. Augustine and Neptune Beach, FL)	)	

To: Chief, Allocations Branch

**COMMENTS OF CLEAR CHANNEL BROADCASTING LICENSES, INC.**

Clear Channel Broadcasting Licenses, Inc. ("CCBL"), licensee of WFKS(FM), Channel 250C2, St. Augustine, Florida, Facility ID No. 67243 (the "Station"), by its attorneys, hereby endorses the Commission's Notice of Proposed Rule Making, 1/ which proposes the following modifications to the Commission's Table of Allotments for FM Broadcast Stations (Section 73.202 of the Commission's Rules): (a) to delete Channel 250C2 from St. Augustine, Florida; (b) to add Channel 250C2 to Neptune Beach, Florida; and (c) to modify the license of the Station to specify operations on Channel 250C2 in Neptune Beach, Florida, in lieu of operation on Channel 250C2 in St. Augustine, Florida (collectively, the "Proposal").

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1/ Notice of Proposed Rule Making, *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (St. Augustine and Neptune Beach, FL)*, DA 01-1083, MM Docket No. 01-101 (rel. April 27, 2001) (the "Notice"). The Notice was issued in response to the Petition for Rule Making filing by CCBL on January 18, 2001 (along with all of its exhibits and attachments, the "Petition").

As noted in the Petition, which these comments incorporate by reference in its entirety, grant of the Proposal would provide first local aural transmission service to Neptune Beach, Florida, a census designated and independent community of approximately 6,816 persons, according to the 1990 Census. Although Neptune Beach is located in the Jacksonville Urbanized Area, at least two lines of Commission precedent confirm that Neptune Beach merits its own local aural transmission service.

First, the Allocations Bureau has determined that it will not extend the limited exception to its allotment priorities known as the Huntington Doctrine to instances where a proposed reallocation would involve moving a station that already serves a particular urbanized area to a new community within that area. <sup>2/</sup> This sensible policy, which pays appropriate heed to the need to conserve the Commission's scarce resources and the limited application of the Huntington Doctrine, <sup>3/</sup> also should govern the Proposal. Accordingly, the proposed reallocation to make the Station the first local transmission service for Neptune Beach should

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<sup>2/</sup> See, e.g., *Greeley and Broomfield, Colorado*, 15 FCC Rcd 9419 (¶ 2) (Allocations 2000). In this recent case, the Allocations Branch refused to require a *Tuck* showing with regard to a station's 70 dBu coverage of two urbanized areas, even though that the proposal would increase the station's 70 dBu coverage of one of those areas to 84 percent, because the station already was providing 70 dBu coverage to more than 50 percent of that area. See also Report & Order, *Kankakee and Park Forest, Illinois*, MM Docket No. 99-330 at ¶ 5 (Allocations, released March 23, 2001); Report & Order, *East Los Angeles, Long Beach, and Frazier Park, California*, 10 FCC Rcd 2864 (¶¶ 20-21) (Allocations, 1995) (noting no *Tuck* showing necessary when station currently serves relevant urbanized area).

<sup>3/</sup> See, e.g., *North Texas Radio, Inc.*, 11 FCC Rcd 8531 (1996).

not require a *Tuck* showing with regard to Jacksonville Urbanized Area, which already is well served by the Station. 4/

Second, and assuming *arguendo* that the Proposal should include a *Tuck* analysis, CCBL already has made a compelling showing that Neptune Beach is its own distinct community that merits its own local transmission service. 5/ Notably, Neptune Beach, which is surrounded by water and two communities – Atlantic Beach and Jacksonville Beach -- with their own radio stations, is a self-governing, census community, with a significant population and extensive local services, including its own schools, water works, public safety department, dozens of retail establishments, several churches, and a number of banks and law firms. 6/ Accordingly, under established Commission precedent and allotment priorities, Neptune Beach deserves its own radio station.

Moreover, the Proposal would not deprive any community of its sole local transmission service. St. Augustine, the community to which the Station is currently assigned, will continue to be the community of license of five radio stations, even though it has only five thousand more residents than Neptune Beach. Also, the Proposal will enable the Station to maintain service to more than 95 percent of residents in its current service area, while increasing the Station's projected total service population.

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4/ See Petition, Exhibit 1, at 5-7.

5/ *Id.* at 7-13.

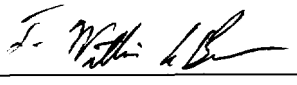
6/ *Id.*

The Technical Statement attached to the Petition has demonstrated that the Proposal is consistent with the Commission's technical rules. 7/ Both that Statement and the *Notice* have confirmed that the Proposal would result in a net population gain, and that any loss of service would be to well-served populations. 8/ A statement from CCBL re-affirming that it will apply for the allotment if changed as proposed also is attached.

Accordingly, the Commission should grant the *Notice*, and otherwise approve the proposed modification in the Station's license under Section 1.420(i) of the Commission's Rules.

Respectfully submitted,

**CLEAR CHANNEL  
BROADCASTING LICENSES, INC.**

By:   
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June 18, 2001

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7/ See Petition at Exhibit 2; *Notice* at ¶¶ 3, 6.

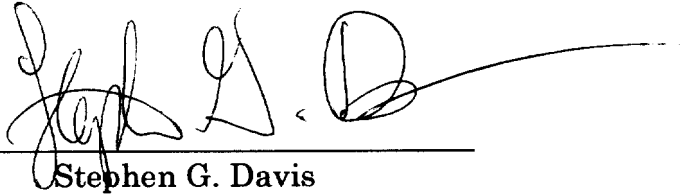
8/ *Id.*

## **DECLARATION**

I, Stephen G. Davis, declare as follows:

1. I am Vice President of Engineering of Clear Channel Broadcasting Licenses, Inc. ("CCBL"), the licensee of WFKS(FM), St. Augustine, Florida.
2. CCBL intends to apply for the construction permit for Channel 250C2 upon adoption of the proposed rule making, as proposed herein, amending Section 73.202, Table of Allotments, FM Broadcast Stations (St. Augustine and Neptune Beach, Florida).
3. If awarded the construction permit for Channel 250C2, CCBL will promptly construct and operate such facilities.

I hereby declare under penalty of perjury that the statements made in this declaration are true and accurate to the best of my knowledge, information and belief.



Stephen G. Davis

June 14, 2001